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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,285	10/06/2006	Fabien Beteille	267380US2PCT	7756
22850	7590	09/05/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER TRAN, BINH X	
			ART UNIT 1792	PAPER NUMBER
			NOTIFICATION DATE 09/05/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/530,285	<b>Applicant(s)</b> BETEILLE, FABIEN	
	<b>Examiner</b> Binh X. Tran	<b>Art Unit</b> 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/03/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 05-03-2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 14-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 4 of claim 14, "smart active system" (emphasis added) is subjective, vague and indefinite. It is unclear from the claims, what specific criteria or conditions that applicants consider as "smart" active system.

In line 20 of claim 20, "low power level" (emphasis added) is subjective, vague and indefinite. It is unclear from the claim what specific power level values that applicants consider as "low" power level.

Claims 15-25 are indefinite because they directly or indirectly depend on indefinite claim 14.

***Claim Interpretation***

4. Claim 25 is a product by process claim. According to the MPEP 2113, "Product-by process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production." Thus, the examiner does not give any patentable weight on the limitation regarding the method of production.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14, 16-21, 23-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Corkum et al. (US 2003/0111447 A1).

Respect to claim 14, Corkum disclose a method of eliminating, using a laser beam of laser radiation, defects lying within a laminate from at least a first substrate and

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from at least a second substrate (See Fig 7a), the laminate incorporating, between the first and second substrate, at least one active system, the method comprising:

locating at least one defect lying within the active system (Fig 2a-2b, Fig 3, paragraph 0036-0040);

ablating the defect, by circumscribing the defect using the laser beam, the ablating the defect electrically isolating a peripheral region of the defect relative to the active system including the defect (Fig 7b; Fig 2a-2b, Fig 3, fig 6a-6b; paragraph 0041-0047).

Respect to claim 16, Corkum discloses the defect is circumscribed using a number of laser pulses (paragraph 0025, 0035, 036, and 0039). Respect to claim 17, Corkum discloses locating the defect is carried out by an optical mechanism (i.e. camera) using image processing software (see Fig 1, Fig 2a-2b, paragraph 0033, 0039-0040, 0042). Respect to claim 18, Corkum teaches pinpointing the defect using at least a first laser beam pulse (i.e. alignment laser beam, See Fig 2a, 2b, Fig 3). Respect to claim 19, Corkum discloses the pinpointing incorporates resetting the laser beam according to a deviation between the at least first pulse (i.e. alignment laser beam) and the defect (See paragraph 0039, 0040, Fig 2a-2b). Respect to claim 20, Corkum discloses the pinpointing is carried out using low power level of a laser beam (Corkum's claim 16, 20).

Respect to claim 21, Corkum discloses the ablating the defect moves the laser beam to follow approximately a peripheral of the defect (See Fig 7b, paragraph 0040-

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0044, Fig 4a, 4b). Respect to claims 23-24, Corkum disclose the ablating defect is carried through the first and second substrate (Fig 7a-7b).

7. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Beteille et al. (WO 00/03289) (English translation via Beteille et al. (US 6,337,758 B1).

Respect to claim 25, Beteille disclosing a glazing comprising at least one of an electrochemical device of glazing device with variable optical or energy properties, the electrochemical device being inserted between two electrodes (first and second electroconductive layer) has been repaired using laser beam, wherein a value of leakage current is reduced to  $4\mu\text{A}/\text{cm}$  from  $400\mu\text{A}/\text{cm}$  at the core the margination of the glazing (See col. 9 lines 1-35, abstract, Fig 1; read on reduced by a factor of 10).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corkum et al. (US 2003/0111447 A1) as applied to claims 14, 16-21, 23-24 above, and further in view of Hackel et al. (US 2002/0046998 A1) .

Respect to claim 15, Corkum fails to disclose using the continuous laser beam. However, Corkum clearly teaches to use pulse laser beam to ablate and isolate the defect. Hackel teaches to use continuous laser beam to treat a small damage spot (paragraph 0059-0060). It would have been obvious to one having ordinary skill in the

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art, at the time of invention, to modify Corkum in view of Hackel by using continuous laser beam because it is capable of remove the damage on the surface.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corkum et al. (US 2003/0111447 A1) as applied to claims 14, 16-21, 23-24 above, and further in view of Cordingley et al. (US 7,027,155 B2).

Respect to claim 22, Corkum fails to disclose a wavelength of the laser beam is adapted so the laser beam is absorbed by layers forming the active system and transmitted through the first and second substrates. Cordingley discloses the wavelength of the laser beams is adapted to absorbed layers of the structure and transmitted through a plurality of layers (read on first and second substrate, See Fig 1b, 1c, Fig 6a-6, col. 15-17). It would have been obvious to one having ordinary skill in the art, at the time of invention, to modify Corkum in view of Cordingley by having the wavelength of the laser beam is adapted so that the laser beam is absorbed by layers and transmitted through the first and second substrate because it helps to control energy deliver to the target substrate.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh X. Tran whose telephone number is (571) 272-1469. The examiner can normally be reached on Monday-Thursday and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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